

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

CHARLES "CHAD" CAIN, III,	§	
Plaintiff	§	
	§	
v.	§	CIVIL ACTION NO. 4:20-cv-00442-O
	§	
ALEDO INDEPENDENT SCHOOL	§	
DISTRICT, FRED COLLIE and	§	
DR. SUSAN BOHN	§	
Defendants.	§	

MOTION TO DISMISS BY DEFENDANTS FRED COLLIE AND SUSAN BOHN

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Defendants Fred Collie and Susan Bohn and file this Motion to Dismiss. In support thereof, Defendants show the Court as follows:

I.

1. Plaintiff alleges violations of the Texas Constitution as well as the United States Constitution pursuant to the remedy provided by 42 U.S.C. § 1983 and asserts that Defendants violated his procedural due process rights (DE 6, ¶¶ 175- 180), substantive due process rights (DE 6, ¶¶ 181-188), equal rights (DE 6, ¶¶ 189-191), free speech rights (DE 6, ¶¶ 192-198), rights to freely associate and assemble (DE 6, ¶¶ 199-202), and the right to petition (DE 6, ¶¶ 203-212). Plaintiff also claims he is entitled to declaratory judgment under 28 U.S.C. § 2201-2202, (DE 6, ¶¶ 213-225), injunctive relief (DE 6, ¶¶ 226-234), and mandamus relief (DE 6, ¶¶ 235-240).

2. Defendants Collie and Bohn move to dismiss Plaintiff's constitutional claims, including the claims asserted pursuant to the remedy provided by 42 U.S.C. § 1983. Defendants also move for dismissal of the federal claims on the basis of qualified immunity as well as for dismissal

of the state claims on the basis of official immunity and statutory immunity under Texas Education Code § 22.0511.

3. Because Plaintiff cannot state a claim for relief and cannot overcome Defendants' entitlement to qualified immunity, official immunity, or statutory immunity, Defendants Collie and Bohn request judgment on all of Plaintiff's federal claims brought pursuant to the remedy provided by 42 U.S.C. § 1983 in addition to the state law causes of action brought against them in these proceedings.

4. In accordance with Northern District Local Rule 7.1(d), Defendants filed a Brief with the Court setting forth their contentions of fact and law, as well as their argument and authorities that support the Motion to Dismiss, which are incorporated herein.

WHEREFORE, PREMISES CONSIDERED, Defendants Collie and Bohn pray this Court grant their Motion to Dismiss and dismiss all of Plaintiff's federal constitutional claims, Texas constitutional claims, and claims brought pursuant to 42 U.S.C. § 1983 which were asserted against them.

Respectfully submitted,

/s/Bridget Robinson

BRIDGET ROBINSON

State Bar No. 17086800

WALSH GALLEGOS TREVIÑO

RUSSO & KYLE P.C.

P. O. Box 2156

Austin, Texas 78768

Office: (512) 454-6864

Fax: (512) 467-9318

Email: brobinson@wabsa.com

Meredith Prykryl Walker

State Bar No. 24056487

WALSH GALLEGOS TREVIÑO

RUSSO & KYLE P.C.

P.O. Box 168046

Irving, Texas 75016-8046

Office: (214) 574-8800

Fax: (214) 574-8801

Email: mwalker@wabsa.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of July, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

William J. Dunleavy
Law Offices of William J. Dunleavy, P.C.
825 Watters Creek Boulevard
Building M, Suite 250
Allen, Texas 75013

/s/Bridget Robinson

BRIDGET ROBINSON